REMARKS

Applicant amended claims 1-17, and added new dependent claims 18-27 to further define Applicant's claimed invention.

In the Office Action, the Examiner rejected claims 1-17 (including independent claims 1, 9, and 17) under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,644,724 to Cretzler ("Cretzler") and further in view of U.S. Patent No. 5,774,872 to Golden et al. ("Golden"). In KSR International Co. v. Teleflex Inc. et al., the Supreme Court reaffirmed the framework for governing obviousness under 35 U.S.C. § 103(a) as set forth in Graham et al. v. John Deere Co. of Kansas City et al., 383 U.S. 1, 148 U.S.P.Q. 459 (1966). (*See* KSR v. Teleflex, 127 S.Ct. 1727 (2007).) Under Graham v. John Deere, a combination of references that does not teach or suggest each and every element of the claimed invention supports a finding of nonobviousness.

According to the Federal Circuit, "a searching comparison of the claimed invention – *including all its limitations* – with the teachings of the prior art" is required of the Examiner when determining whether a claim is obvious. (In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added).) As such, "obviousness requires a suggestion of all limitations in a claim." (CFMT, Inc. v. YieldUP Int'l. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing In re Royka, 490 F.2d 981, 985 (CCPA 1974)).) Accordingly, a combination of references that does not result in each and every limitation of the claimed invention can be determinative of finding of nonobviousness.

As discussed below, the Examiner's combination of Cretzler and Golden does not teach or suggest each and every limitation of the invention recited in independent claims 1, 9 and 17, at least as amended. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. § 103(a) cannot be maintained.

Each of independent claims 1, 9, and 17 recite a point of sale tax reporting system involving at least four entities including: (1) a consumer, (2) a merchant and/or a retailer, (3) a credit card processing company, and (4) a state agency or a state authorized entity. The consumer is a separate entity from the merchant or retailer, the credit card processing company, and the state agency or the state authorized entity. Unlike the merchant or retailer, the consumer (as opposed to the merchant and/or

retailer) is not responsible for paying sales tax to a state agency or a state authorized entity on the transaction with the merchant or retailer. Furthermore, unlike the merchant and/or retailer, the credit card processing company, and the state agency or the state authorized entity, the consumer is not involved in the transfer of sales tax receipts.

Amended independent claim 1 now recites a tax reporting system wherein "a transaction number associated with the transaction is provided by said at least one tax register to the consumer," and with "a second communication link permitting the consumer to connect with said computer system at the state agency, said second communication link enabling the consumer to input the transaction number to said computer system and receive confirmation from the state agency whether the transaction has been properly reported." Furthermore, amended independent claim 9 now recites a tax reporting system wherein "a transaction number associated with the transaction is provided by said at least one of a first computer and a register to the consumer," and with "a second communication link permitting the consumer to connect with said computer system at the state authorized entity, said second communication link enabling the consumer to input the transaction number to said computer system and receive confirmation from the state authorized entity whether the transaction has been properly reported." Finally, amended independent claim 17 now recites a tax reporting system wherein "a transaction number associated with the transaction is provided by said tax register to the consumer," and with "a second communication link permitting the consumer to connect with said computer system at the state agency, said second communication link enabling the consumer to input the transaction number to said computer system and receive confirmation from the state agency whether the transaction has been properly reported." As such, the second communication link recited in independent claims 1, 9, and 17 provides a device for an individual consumer to contact the state agency or the state authorized entity to confirm "whether the transaction has been properly reported." Hence, by using the transaction number provided by "said at least one tax register" of independent claim 1, "said at least one of a first computer and a register" of independent claim 9, and "said tax register" of

independent claim 17, the individual consumer is effectively empowered to confirm that the use tax has been paid to the state agency or the state authorized entity.

As discussed above, the transaction number recited in independent claims 1, 9, and 17 is provided to an individual consumer for each transaction so that payment of the use tax by the merchant and/or retailer to the state agency or the state authorized entity can be confirmed by the consumer for the transaction specific to that consumer. In rejecting independent claims 1, 9, and 17, the Examiner simply concludes that "it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the transaction data to include a transaction number, the transaction number enabling the consumer to confirm with the state agency whether the transaction has been properly reported, with the motivation of showing that the tax data was completely processed at the state agency." Furthermore, the Examiner concludes that "it is obvious to confirm that a wire transfer is completed since for wire transactions, confirmation of receipt of payment is always done, and also since the tax data [including sums of the tax data] is stored under the merchants tax identification number, this suggests that the sums wired can be confirmed through access of the tax identification number." However, the Examiner has not pointed to any teachings or suggestions in either Cretzler and Golden supporting these conclusions.

Applicant submits comparing the ability of a merchant and/or retailer using a tax identification number or confirming completion of a wire transfer with the ability of a consumer to confirm with a state agency or a state authorized entity "whether the transaction has been properly reported" is improper. Typically, the merchant and/or retailer pays the use tax due to the state agency or the state authorized agency in aggregate for a number of transactions. Thus, even if a specific consumer had access (which is usually not provided) to the tax identification number of a merchant and/or retailer), the tax identification number would not necessarily identify individual transactions for that specific consumer. Moreover, confirmation that a wire transfer of the monies was completed for the aggregate use tax paid for a number of transactions also would not necessarily identify individual transactions for a specific consumer. The Examiner has not pointed to any disclosure in either Cretzler or Golden that teaches or

suggests otherwise. Thus, given the lack of teachings therein regarding use of a transaction number provided to an individual consumer for each transaction so that payment of the use tax by the merchant and/or retailer to the state agency or the state authorized entity can be confirmed for the transaction specific to that consumer, neither Cretzler, Golden, nor a combination thereof results in each and every recitation of independent claims 1, 9, and 17. Accordingly, Applicant submits that amended independent claims 1, 9, and 17 are patentable over the Examiner's rejection under 35 U.S.C. § 103(a) based on Cretzler and Golden.

In conclusion, Applicant submits that amended independent claims 1, 9, and 17 are patentable and that dependent claims 2-8 and 10-16, and new claims 18-27 dependent from one of independent claims 1, 9, and 17, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim. Therefore, in view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Accordingly, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

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